



Department of Veterans Affairs

Financial Policy

Volume XII

Debt Management

Chapter 13

Termination of Collection Standards

Approved:

Jon J.
Rychalski
1367389

Digitally signed by
Jon J. Rychalski
1367389
Date: 2021.07.14
16:53:50 -04'00'

Jon J. Rychalski
Assistant Secretary for Management
and Chief Financial Officer

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1301 Overview

This chapter establishes the Department of Veterans Affairs' (VA) financial policies for the termination of collection action, write-off of debts, close-out of debts, and reporting the discharge of debts to the Internal Revenue Service (IRS).

VA has the responsibility to attempt to collect delinquent debts owed to the agency by actively engaging in collections of these debts. However, at some point in the collection process, it may become evident a debt is “uncollectible,” and it may be appropriate to terminate collection action and write-off or close-out the debt.

Key points covered in this chapter include:

- VA will adhere to laws and guidance when terminating debt collection activities;
- VA must exhaust all collection efforts and meet criteria before terminating debt collections;
- VA will adhere to established dollar thresholds and approval levels for terminating debt collection activities;
- VA will classify the debt as either currently not collectible or as a close-out when a debt is terminated and written off; and
- If a non-benefit debt over \$600 is discharged, the amount must be reported as income to the IRS.

1302 Revisions

Section	Revision	Office	Reason for Change	Effective Date
130507	New section dealing with CRA reporting	OFP (047G)	New law	July 2021
Appendix C	Added SECVA CRA memo	OFP (047G)	New memo	July 2021
1302 Rescissions	Removed all references to Cash Cost and Debt Management (CCDM) throughout chapter	OFP (047G)	Organizational name change	February 2021
1304 Roles and Responsibilities	Changed title of Chief of Finance Activity to Chief of Local Finance Activity	OFP (047G)	Updated role titles for clarity	February 2021

Section	Revision	Office	Reason for Change	Effective Date
1305 Policies	Reformatted policies into separate sections	OFP (047G)	Improved flow and order of information stated	February 2021
Added Appendix A	Added Quick Reference Guide for Authorities, Criteria, Thresholds, and Actions for Termination of Debt Collection Action Information	OFP (047G)	Provides quick availability to the information	February 2021
Added Appendix B	Added a Quick Reference Guide for Termination of Collection Action, Write- Off, Currently Not Collectible (CNC), and Close-Out Information	OFP (047G)	Provides quick availability to the information	February 2021

1303 Definitions

Allowance – As related to a VA employee, an allowance includes, but is not limited to, payment for quarters, uniforms, overseas cost of living expenses, travel and transportation expenses, and relocation allowances.

Benefit Debt – Debts arising out of participation in a VA benefit program (e.g., compensation, education, pension, medical etc.) under the authority of Title 38 of the U.S. Code.

Claimant – A person who makes a claim or who asserts a right or an interest.

Claims Collection Litigation Report (CCLR) – Required form used when submitting a request to terminate collection activity, on a debt \$100,000 and above, to the Department of Justice (DOJ).

Close-out – A classification after write-off, also referred to as a Discharge of Indebtedness, when the agency has determined that no further debt collection action will be taken and the debt will be discharged, in accordance with 31 C.F.R. § 903.5, 38 C.F.R. § 1.944, and OMB Circular No. A-129. A non-benefit debt close-out of \$600 or more must be reported to the Internal Revenue Service (IRS) per 26 U.S.C. § 6050P.

Compromise – Governed by 31 U.S.C. § 3711, a compromise is an offer and acceptance of a partial payment in settlement and full satisfaction of the offeror's indebtedness as it exists at the time the offer is made. It is a final settlement, binding on the parties to the compromise, unless procured by fraud, misrepresentation of a material fact, or mutual mistake of fact.

Currently Not Collectible (CNC) – A classification of a debt after write-off whereupon cost effective debt collection efforts should continue if an agency determines that continued collection efforts are likely to yield a return. In such cases, the written-off debt is not closed out but classified as CNC.

Debtor – A person, company, or other organization that owes money.

Delinquent – Delinquency occurs when payment is not made by the due date specified in the initial billing notice.

Enforced Collection – The referral of a delinquent debt to the Office of General Counsel (OGC) or the Department of Justice (DOJ) for collection by securing a judgement against the debtor through litigation.

Equitable Relief – Per 38 U.S.C. § 503, this is a means for the Secretary to provide a remedy for an injustice done to a claimant resulting from mistakes made in applying rules and regulations that either deprived the claimant of benefits, or caused the claimant to suffer a loss because he/she relied on an erroneous decision.

Financial Status Report (VA Form 5655) – A VA form used by debtors to list their current income, expenses, and financial condition.

Medical Services – Includes, but is not limited to, the following: outpatient services, inpatient services, medical examination, treatment, rehabilitative services, prescription medications, supplies, surgical services, dental services and appliances as allowed by law, optometric services, podiatric services, preventive health services, and durable medical equipment, per 38 C.F.R. § 17.38.

Termination of Collection Action – A decision, under the guidance of the Federal Claims Collection Standards 31 C.F.R. § 903, to cease active collection action on a debt when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

Waiver – A decision that results in cancellation, forgiveness, or non-recovery of a debt owed, including interest and other late payment charges assessed on such debts under the applicable statutes and implementing regulations 38 C.F.R. § 1.955 through 38 C.F.R. § 1.969, and 38 C.F.R. § 17.105.

Write-Off – An accounting action that results in reporting the debt as having no value on the agency's financial and management report. Write-off may occur before, concurrently with, or after the agency determines that collection action should be terminated. A write-off must be classified as either Currently Not Collectible (CNC) or as a close-out per OMB Circular No. A-129 guidance.

1304 Roles and Responsibilities

Secretary of Veterans Affairs (Secretary) has the authority to:

- Provide a remedy and forgive the debt for an injustice done to a claimant resulting from mistakes made in applying rules and regulations that either deprived the claimant of benefits, or caused the claimant to suffer a loss because he/she relied on an erroneous decision (38 U.S.C. § 503).
- Terminate collection on all or any part of a VA program benefit debt owed to the United States by an individual who is a member of the Armed Forces or a Veteran who dies as a result of injury incurred or aggravated in the line of duty while serving in a theater of combat operations in a war or in combat against a hostile force during a period of hostilities after September 11, 2001, when the termination of collection action is in the best interest of the United States 38 U.S.C. § 5302A. Debts associated with the Housing Program, per 38 U.S.C. Chapter 37, are exempt from this special authority action.
- Suspend or terminate an action under 31 U.S.C. § 3711(f)(3), or collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy, if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so.
- Refund any amounts collected after the death of a member of the Armed Forces or Veteran to the estate of the decedent or, in its absence, to the decedent's next-of-kin under 38 C.F.R. § 1.945(d).

Under Secretaries, Assistant Secretaries, Chief Financial Officers and Other Key Officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

Chief of the Local Finance Activity is responsible for ensuring that compliance with the policies and appropriate procedures are followed for the administration of VA's debt collection activities. Any reference to the Chief of the Local Finance Activity also includes the: Director of the Debt Management Center (DMC), Director of the Financial Service Center (FSC) where appropriate, as well as Chief Fiscal Officers in VA Medical Centers, Chief Finance Officers in Regional Offices, and Chief Fiscal Officers in the Consolidated Patient Account Centers (CPAC).

Board of Veterans' Appeals (BVA) reviews benefits claim determinations made by local VA offices and issues decisions on appeals of those determinations. For more information on BVA, refer to 38 U.S.C. § 7103 to § 7104.

Committee on Waivers and Compromises (COWC) is the decision-making panel composed of one or more members, making decisions on a request for a waiver or compromise. The Committee is under the direction of and has authority vested in the Director of the office of jurisdiction. The Committee will have independent decision-making authority. For more information please refer to VA Financial Policy Volume XII Chapter 11.

Debt Management Center (DMC) is a franchise fund (fee-for-service) organization in VA. The DMC offers a wide range of debt management services including debt resolution activities, (waivers, compromises, etc.) and is responsible for debt referral to the Treasury Cross-Servicing program.

Office of General Counsel (OGC) is authorized, in matters within the jurisdiction of VA's General Counsel, delegated or otherwise assigned, to conduct investigations, examine witnesses, take affidavits, administer oaths and affirmations, and certify copies of public or private documents.

Financial Services Center (FSC) is a franchise fund (fee-for-service) organization where VA has centralized most vendor payments. FSC is responsible for initiating the collection of debts on the payments it issues. FSC will forward debts to DMC for delinquent debt processing in accordance with their Service Level Agreement, (i.e., when debts become 90 days past due).

1305 Policies

130501 General Policies

VA will adhere to the guidance mandated for termination of collection action, write-off, and close out of debts in accordance with statutes, regulations, and standards set forth in the following:

- 31 U.S.C. § 3711, Collection and Compromise;
- 38 C.F.R. §§ 1.900-1.970, Collection and Compromise;
- 31 C.F.R. §§ 900-904, Chapter IX Federal Claims Collection Standards;
- Debt Collection Improvement Act;
- Treasury Interim Ch 7 – Termination of Collection Action, Write-Off, and Close-Out Cancellation of Indebtedness;
- Treasury Financial Management – Managing Federal Receivables;
- OMB Circular No. A-129, Policies for Federal Credit Programs and Non-Tax

Receivables; and

- 31 C.F.R. § 903.5, Discharge of Indebtedness; reporting requirements.

130502 Criteria Standards for Termination of Collection Action

- A. VA will terminate collection activity on debts when all available collection efforts have been exhausted, and one or more of the standard criteria for termination of collection action has been met such as:
- VA is unable to collect any substantial amount through its own efforts or through the efforts of others (Treasury Cross-Servicing and Treasury Offset Program);
 - VA is unable to locate the debtor;
 - Costs of collection are anticipated to exceed the amount recoverable;
 - The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;
 - The debt cannot be substantiated by evidence; or
 - The debt against the debtor has been discharged in bankruptcy.
- B. VA will terminate collection action on debts not meeting the criteria for the Treasury Offset Program (TOP) and Cross-Servicing (CS) referral.
- C. Termination for overpayment due to breach of contract should be addressed in the specific contract.
- D. Termination of collection activity does not bar the agency from pursuing passive collection through offset or legally permissible administrative collection activities.
- E. For more information see Treasury Interim Ch 7 – Termination of Collection Action, Write-Off, and Close-Out Cancellation of Indebtedness.

130503 Termination of Collection Action Case Review

- A. Termination decisions will be authorized by the appropriate individual or office having jurisdiction over that debt including but not limited to a Chief of the Local Finance Activity in one of the following:
- VA Medical Center;
 - VA Regional Office;
 - DMC; or
 - FSC.
- B. Termination decisions shall only be based upon documented information maintained in a case file. Case files should include the following:

- Statement of the amount of indebtedness, indicating any credit;
 - The original principal amount of the debt;
 - Principal reduction, if any, (including reduction by offset of VA benefits);
 - Current principal balance;
 - Current accrued interest, if any;
 - Other current accrued costs or charges, if any;
 - Total current amount of indebtedness;
 - Itemized statement of allowances that may be due the debtor from VA for educational assistance, disability compensation, pension, insurance, or other VA benefits;
 - VA Form 5655 Financial Status Report (FSR) or other appropriate financial documents, or a current credit report on the debtor, and/or verification of employment;
 - For ineligible hospitalization or emergency care debts, a statement showing all means of recovery from Medicare and Medicaid programs, or other health insurance (OHI) payers have been exhausted, or showing neither program is applicable and stating the reasons why; and
 - For vendor debts, a statement that VA's payment data has been reviewed to ensure the vendor is not doing business with other VA offices and there are no payments due the vendor from VA which could be offset.
- C. Termination decisions will be properly documented and approved by appropriate personnel as specified in section 130504. Approval documentation shall be retained in the case files for audit purposes.

130504 Threshold Authority for Termination of Debt Collection Action

Multiple debts owed by one individual will be consolidated to determine dollar thresholds.

- A. Debts less than \$25 (excluding interest and other late payment charges).
1. VBA benefit debts under \$25 will be terminated if the debtor is not receiving VA benefits subject to offset, and when one or more of the following conditions exist:
 - The first collection letter is returned marked no forwarding address;
 - No payment or reply is received within 30 days of the date of a second collection letter if applicable;
 - The debtor refuses to pay;
 - No additional payments are received on the debt and it has been 60 days from the date of the last payment;
 - There are no VA benefits to offset;
 - There are no other Federal payments to offset; or
 - Indications are that further collection action will not result

in voluntary payment.

2. A partially collected VHA first party debt that was originally referred to TOP or CS, and now has a balance due that is less than \$25.
 3. For other debts besides VBA benefit debts and VHA first party medical debts cited above, and assuming no opportunity for collection by involuntary offset exists, the Chief of the Local Finance Activity may terminate non-benefit debts, such as:
 - Erroneous payment of pay and allowances (former employees);
 - Travel debt;
 - Vendor debt; and
 - Freedom of Information Act charges when one or more of the conditions exists as defined in 130502.
- B. Debts between \$25 and \$1,000 (excluding interest and other late payment charges). The Chief of the Local Finance Activity may terminate these debts when:
- There are no VA benefits to offset;
 - There are no other Federal payments to offset;
 - Indications are that further collection action will not result in voluntary payment;
 - Debts referred to TOP or CS uncollected due to lack of Federal payment at least 1 year after referral;
 - Debt is discharged in bankruptcy; or
 - Debt does not meet criteria for TOP or CS referral.
- C. Debts over \$1,000 threshold, but not greater than \$40,000 (excluding interest and other late payment charges). The CFO within VHA, VBA, NCA, the Director of the FSC, the Director of the DMC, and the Deputy Assistant Secretary (DAS) for Finance, has authority to terminate debt collection action and the remaining debt when the criteria have been met as stated above in 130502.
- D. Debts over \$40,000 but less than \$100,000 (excluding interest and other late payment charges). The Deputy Assistant Secretary (DAS) for Finance Office has authority to terminate debt collection action and the remaining debt when the criteria have been met as stated above in 130502.
- E. Debts \$100,000 and over (excluding interest and other late payment charges):
1. Debts meeting this dollar threshold for termination must be submitted, together with a CCLR Standard Form 750, by Administration CFOs, DAS of Finance, or the Chief of the Local Finance Activity to DOJ for review and approval to terminate the debt.

2. If there is a question to the legal merit of the claim, the Chief of the Local Finance Activity must request a review by the Office of General Counsel before submitting to DOJ.
 3. See Appendix A for a quick reference guide to termination of collection action criteria, thresholds, authorities, and actions.
- F. In accordance with 38 CFR §2.6(e)(4)(iii) if a debt is referred to the Office of General Counsel for enforced collection action, OGC is authorized to collect, compromise, suspend or terminate a claim not exceeding \$100,000, in full from an individual or legal entity who is liable for the cost of hospital, medical, surgical, or dental care and treatment of a person.

130505 Write-Off Classifications

- A. The decision to terminate collection action and the accounting decision to write-off a debt often coincide. Write-off of a debt is an accounting action that results in reporting the debt/receivable as having no value on the agency's financial and management reports.
- B. Write-off is mandatory for debts delinquent more than two years, unless documented and justified to the Office of Management and Budget (OMB) in consultation with Treasury. However, in those cases where material collections can be documented to occur after two years, debt cannot be written off until the estimated collections become immaterial.
- C. Debts approved for waiver by the COWC or BVA will be written-off within 90 days of the waiver being approved.
- D. In accordance with OMB Circular No. A-129, debts written-off must be classified as either CNC or close-out. Write-offs should be classified as CNC if an agency determines that continued cost-effective collection efforts may result in greater collections than discontinuing all collection efforts. Conversely, write-offs should be classified as close-out if the agency determines it is no longer cost effective to pursue collection. (See Appendix B for guidance in determining the classification.)
- E. Debts that receive a CNC Classification:
 1. Will remain at TOP for possible future collection (VA will be notified by Treasury that active collection action is no longer being taken on a debt through cross-servicing.) VA may not recall a CNC debt from TOP unless the debt is being closed-out in VA's records

For more information on TOP and Cross-Servicing, refer to Vol XII, Chapter 14 – Treasury Offset Program, Treasury Cross Servicing, Administrative Wage Garnishment, and Enforced Collection (Litigation).

- 2 Are not closed-out in VA's financial records.
- 3 May be reestablished if:
 - An offset becomes available in the future (Treasury will perform the offset and notify VA);
 - VA receives a partial payment of a CNC debt;
 - If the debtor associated with terminated nonmedical benefit debt becomes entitled to VA benefits which may be offset; or
 - If the debtor submits payment in full, or an acceptable compromise payment for the debt has been approved.
- 4 Will be maintained for administrative offset and passive collection until:
 - The debt is paid;
 - The debt is closed out;
 - The debt is legally prohibited; or
 - The debt is sold.
- 5 Will be classified as "currently not collectible" on the Treasury Report on Receivables (TROR).

For more information on the TROR, refer to Vol XII, Chapter 15 – Treasury Report on Receivables.

F. Debts that receive a Close-Out Classification:

1. Have been determined that it is no longer cost effective to pursue any type of collection activity, such as:
 - When a debt is approved for waiver by the COWC or BVA, with the exception of the Home Loan Program debts;
 - Any portion of a debt that is remaining after a compromise has been agreed upon;
 - The debtor is deceased and there is no prospect of collecting from the beneficiary or the estate;
 - The debt is referred for enforced collection/ litigation and is determined uncollectible, as advised by the U.S. Attorney or OGC that has jurisdiction; or
 - The debtor has filed a petition for bankruptcy, with the exception of the Home Loan Program debts.
- 2 Will have all collection activities permanently ceased;

3. Will be classified as “Close-out” on the TROR.

130506 Reporting Debt Close-Out / Discharge of Debt to IRS

- A. A close out or discharge of a non-benefit debt of \$600 or more must be reported to the IRS as potential income in the calendar year in which the debtor is relieved of the debt, using a Form 1099-C, per the regulations below:
 - 26 C.F.R. § 1.6050P-1;
 - 31 C.F.R. § 903.5; and
 - 38 C.F.R. § 1.944.
- B. For purposes of this section, “multiple discharges of indebtedness of less than \$600 are not required to be aggregated” – 26 C.F.R. § 1.6050P-1.

130507 Reporting Debt to Consumer Reporting Agencies

- A. In accordance with P.L. 116-315 § 2007, VA will establish reporting requirements for referrals to Consumer Reporting Agencies (CRA).
- B. Before referring a debt to a CRA, VA must confirm the outstanding debt is:
 1. Classified as currently not collectible;
 2. Not owed by individuals who are determined by VA to be catastrophically disabled or entitled as a VA beneficiary to cost-free health care, medications and/or beneficiary travel; and
 3. Greater than \$25.

For more information see Appendix C “Decision Memorandum – Threshold for Referral to Consumer Reporting Agencies”.

1306 Authorities and References

[5 U.S.C. § 5584, Claims for overpayment of pay and allowances, and of travel, transportation and relocation expenses and allowances](#)

[26 C.F.R. § 1.6050P-1, Information reporting for discharges of indebtedness by certain entities](#)

[26 U.S.C. § 6050P, Returns relating to the cancellation of indebtedness by certain entities](#)

[31 C.F.R. §§ 900-904, Chapter IX Federal Claims Collection Standards](#)

[31 U.S.C. § 3711, Collection and compromise](#)

[38 C.F.R. §§ 1.900-1.907, Standards for Collection, Compromise, Suspension or Termination of Collection Effort, and Referral of Civil Claims for Money or Property](#)

[38 C.F.R. §§ 1.910-1.929, Standards for Collection of Claims](#)

[38 C.F.R. §§ 1.930-1.936, Standards for Compromise of Claims](#)

[38 C.F.R. §§ 1.940-1.945, Standards for Suspending or Terminating Collection Action](#)

[38 C.F.R. §§ 1.950-1.970, Referrals to GAO, Department of Justice, or IRS](#)

[38 C.F.R. § 17.38, Medical Benefits Package](#)

[38 C.F.R. § 17.103, Referrals of Compromise Settlement Offers](#)

[38 C.F.R. § 17.104 Terminations and Suspensions](#)

[38 C.F.R. § 17.105, Waivers](#)

[38 U.S.C. § 503, Administrative Error; Equitable Relief](#)

[38 U.S.C. § 7103, Reconsideration; correction of obvious errors](#)

[38 U.S.C. § 7104, Jurisdiction of the Board](#)

[38 U.S.C. § 5302, Waiver of Recovery of Claims by the United States](#)

[38 U.S.C. § 5302A, Collection of Indebtedness](#)

[38 U.S.C. Chapter 37, Housing and Small Business Loans](#)

[CCLR Instructions](#)

[CCLR Standard Form 750](#)

[Debt Collection Improvement Act](#)

[IRS Form 1099-C Cancellation of Debt](#)

[Office of Management and Budget \(OMB\) Circular No. A-129, Policies for Federal Credit Programs and Non-Tax Receivables](#)

[Treasury Financial Management - Managing Federal Receivables](#)

[Treasury Interim Ch 7 - Termination of Collection Action, Write-Off, and Close-Out Cancellation of Indebtedness](#)

[VA Form 5655 Financial Status Report](#)

1307 Rescissions

- A. VA Financial Policy Volume XII, Chapter 1I – Termination of Collection Action and Debt Close-Out.
- B. VA Financial Policy Volume XII, Chapter 1J – Reporting Discharge of Indebtedness to IRS.

1308 Questions

Questions concerning these financial policies should be directed to the following points of contact:

VHA	VHA CFO Accounting Policy (10A3A) (Outlook)
VBA	VAVBAWAS/CO/OPERATIONS (Outlook)
DMC	VAVBASPL/DMC/BDEV (Outlook)
FSC	VAFSCEnterpriseSupport@va.gov
All Others	OFP Accounting Policy (Outlook)

Appendix A: Quick Reference Guide for Criteria, Authority, Thresholds, and Actions for Debt Termination

	Over \$100,000	\$0 - \$100,000	\$0 - \$40,000	0 - \$25
Criteria	<ol style="list-style-type: none"> 1. Inability to collect substantial amount of debt 2. Inability to locate debtor 3. Cost of collection exceeds debt amount 4. Bankruptcy 5. Death / No estate 	<ol style="list-style-type: none"> 1. Inability to collect substantial amount of debt 2. Inability to locate debtor 3. Cost of collection exceeds debt amount 4. Claim cannot be substantiated by evidence 5. Claim is without merit 6. Bankruptcy 	<ol style="list-style-type: none"> 1. No VA benefits to offset (benefit debt only), or 2. No other Federal payments to offset, or 3. Indications are that further collection action will not result in voluntary payment, or 4. Debts referred to TOP partially collected via offset, with a remaining balance below \$25 5. Debts referred to TOP or CS uncollected due to lack of Federal payment at least 1 year after referral 6. Debts not meeting criteria for TOP or CS referral 7. Bankruptcy 	<ol style="list-style-type: none"> 1. No benefits or other VA payments subject to offset and one of these: 2. First collection letter returned “no forwarding address” 3. Second collection letter, if applicable, yields no payment or reply in 30 days 4. Debtor refuses to pay 5. 60 days have elapsed since last payment 6. VHA first party debt, referred to TOP or CS, partially collected with a remaining balance of \$25 7. Bankruptcy
Authority to Approve Termination	DOJ	DAS for Finance or OGC.	Chief of the Local Finance Activity up to \$1,000. Above \$1,000, it is DAS Finance,	Chief of the Local Finance Activity

			Administration CFOs, Director DMC, , or designee.	
Action	<ol style="list-style-type: none"> 1. The Chief of the Local Finance Activity forwards CCLR to DOJ for approval to Terminate 2. If legal merit of claim is question ed, send to OGC for review first before sending to DOJ. 	Terminate	<p>1, 2, 3, 4, and 6 above: Terminate</p> <p>5: Review for suspension, enforced collection, or termination</p>	<p>Terminate</p> <p>Note: VHA 1st party medical debts should be kept for at least six months to allow for additional medical and pharmaceutical charges.</p> <p>After six months, if criteria listed apply, terminate debt.</p>

Debt amounts are exclusive of interest and other charges.

Appendix B: Quick Reference Guide for Termination of Collection Action, Write-Off, Currently Not Collectible (CNC), and Close-Out

	Description	Statutes and Regulations	Timing	Comment
Termination of Collection Action	Agency stops all active debt collection action. But may continue passive collection action.	31 U.S.C. § 3711 31 C.F.R. § 903.3	Not tied to write-off but must occur before close-out.	Agency decision to terminate must comply with Federal Claims Collection Standards (31 CFR § 903). DOJ concurrence required for debts \$100,000 and above.

Actions

	Description	Guidance	Timing	Comment
Write-Off	Agency reports debt as having no value on financial and management reports.	OMB Circular No. A-129	No later than 2 years after debt delinquency; not tied to termination or suspension.	At time of write-off, agency must classify the debt as CNC or close-out.
Currently Not Collectible (CNC)	A classification after write-off when the agency has determined that debt collection efforts should continue until the Agency determines it is no longer cost effective to pursue collection.	OMB Circular No. A-129	Can only occur at the time the debt is written off.	CNC classification does not affect agencies' statutory and regulatory responsibilities to pursue debt collection.
Close-Out	A classification after write-off when the agency has determined that no further active or passive debt collection action will be taken.	OMB Circular A-129	Must occur after write-off and termination of collection action; can occur after CNC classification, if debt was initially classified as CNC at time of write-off.	Agency may not take any collection action after close-out; as required by Internal Revenue Code and regulations, agency must report closed-out debt of \$600 or more to IRS on Form 1099-C as potential income to the debtor.

Appendix C: Decision Memorandum – Threshold for Referral to Consumer Reporting Agencies

Department of
Veterans Affairs

Memorandum

Date: 07 June 2021

From: Assistant Secretary for Management and Chief Financial Officer (004)

Subject: Decision Memorandum – Threshold for Referral to Consumer Reporting Agencies (VIEWS #5160125)

To: Secretary (00)

1. **Purpose:** P.L. 116-315 § 2007 (Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020) requires the Secretary of the Department of Veterans Affairs (VA) to prescribe regulations establishing the minimum amount of a claim to be reported to Consumer Reporting Agencies (CRA). This memorandum documents the approach approved by the Secretary on June 3, 2021.

2. **Background:** Before COVID-19, the Veterans Benefits Administration (VBA) referred delinquent benefit debts to CRA (approximately 5K accounts referred per month). By contrast, the Veterans Health Administration (VHA) did not refer first party medical debts to CRA; however, if VHA reported delinquent debts to CRA it would refer approximately 120K accounts per month. As part of VA's COVID-19 relief efforts, debt CRA referrals are suspended until September 30, 2021.

Referral to a CRA does not aide VA debt collection. This law directs VA to establish a reporting threshold for CRA referrals; not suspend CRA referrals. VA is still required to report delinquent debtors to CRA in accordance with the Debt Collection Improvement Act of 1996. The Office of Regulation Policy and Management advised that VA must include a methodology for determining the new reporting threshold. As a result, the Office of Management (OM), in coordination with VBA and VHA, developed a reporting threshold that minimizes negative impacts to Veterans.

The proposed criteria that will establish the reporting threshold are the existence of these three elements: (1) the debt is classified as currently not collectible such that VA has exhausted all available collection efforts; (2) the debt is not owed by individuals who are determined by VA to be catastrophically disabled or entitled as a VA beneficiary to cost-free health care, medications and/or beneficiary travel; and (3) the outstanding debt is greater than \$25.

A debt reporting threshold based on these criteria provides a fair and consistent approach for CRA referrals. It supports the intent of the law to reduce negative impacts to Veterans by reducing CRA referrals by 99.9%. As a result, VBA's CRA referrals will be reduced from approximately 63,000 accounts to roughly 2 accounts per year. VHA's

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(VIEWS #5160125)

potential CRA referrals (recall VHA does not currently refer first party medical debt to CRA) will be reduced from an estimated 1.2 million to roughly 6 accounts per year. Further, it provides an equitable and defensible approach based on criteria which differentiates between those who have the financial means to honor their commitments while exempting those who are struggling financially.

3. **Decision:** OM proposes VA use the three criteria above to determine which debts are referred to CRA. Other methodologies, such as establishing a single threshold for referral, may result in more debts referred to CRA and are considered highly subjective when no government-wide standard is available. Applying these three criteria will minimize negative impacts to Veterans. If the proposed methodology is approved, the language shown in the attachment will be used in the Federal Register.

Jon J. Rychalski
1367389

Digitally signed by Jon J.
Rychalski 1367389
Date: 2021.06.08
08:47:38 -0400

Jon J. Rychalski

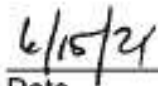
Attachment

 Approve/Disapprove

Comments:



Denis McDough



Date

Attachment

Threshold for Referral to Consumer Reporting Agencies (VIEWS 5160125)

Proposed Language

For the reasons stated in the preamble, the Department of Veterans Affairs (VA) amends 38 C.F.R. part 1 as set forth below:

PART 1 – General Provisions

1. The authority citation for part 1 is revised to read as follows:

Authority: 31 U.S.C. § 3711(e); 38 U.S.C. §§ 501, 5701(g) and (i); 38 U.S.C. § 5320.

1.916 [AMENDED]

1. Amend § 1.916 to revise paragraph (c) and add paragraphs (1) through (3) following paragraph (c) to read as follows:

(c) Subject to the conditions set forth in this paragraph and paragraph (d) of this section, information concerning individuals may be disclosed to consumer reporting agencies for inclusion in consumer reports pertaining to the individual, or for the purpose of locating the individual. Disclosure of the fact of indebtedness will be made if the individual fails to respond in accordance with written demands for repayment or refuses to repay a debt to the United States. In making any disclosure under this section, VA will provide consumer reporting agencies with sufficient information to identify the individual, including the individual's name, address, if known, date of birth, VA file number and Social Security number.

- (1) The Secretary has established a minimum threshold for a debt, arising from a benefit administered by the Under Secretary for Benefits or Under Secretary for Health, that the

Attachment

Secretary will report to a consumer reporting agency under section 3711 of title 31. The minimum threshold will be published and updated in the Federal Register.

(2) VA will only report those debts that meet the following standards:

- (i) Debts are classified as currently not collectible. For purposes of this paragraph, debts are currently not collectible if VA has exhausted available collection efforts, including, as appropriate, referrals for administrative offset and enforced collection; and
- (ii) The debt is not owed by an individual who is determined by VA to be catastrophically disabled or has reported to VA a gross household income below the applicable geographically adjusted income limits that would entitle a VA beneficiary to cost-free health care, medications and/or beneficiary travel; and
- (iii) The outstanding debt amount is over \$25, or such higher amount VA may from time to time prescribe, in accordance with section 1.921 of this part.

(3) The minimum threshold set forth in this paragraph will not apply if there is an indication of fraud, misrepresentation, or other bad faith on the part of the individual in connection with the debt.